

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	Misc. No. 11-16 Erie
)	District Judge McLaughlin
KRISTAL ANN CLARK,)	
)	
Defendant,)	
)	
JANNEY MONTGOMERY SCOTT, LLC,)	
And its successors and assigns,)	
)	
Garnishee.)	

MEMORANDUM ORDER

McLAUGHLIN, SEAN J., J.

This matter is before the Court upon the United States of America's Application for Writ of Garnishment pursuant to 28 U.S.C. § 3205. On May 3, 2007, the defendant, Kristal Ann Clark ("Defendant"), was sentenced by this Court to 70 months incarceration and ordered to pay restitution of approximately \$3,391,277.00 after being convicted of three counts of mail fraud and three counts of income tax evasion. As of December, 2011, Defendant still owed approximately \$3,388,120.89 in restitution. The United States' writ of garnishment seeks to recover the contents of a personal investment account jointly owned by Defendant and her ex-husband, Marc Clark, in the possession of the Garnishee, Janney Montgomery Scott, LLC.¹

¹ The government and Marc Clark have agreed that because Mr. Clark is "a joint owner of the account and owes no restitution under his ex-wife's criminal conviction", he "will receive half of the balance of the account." (Plaintiff's Response to Defendant's Objections, Ex. B).

In response to the writ of garnishment, Defendant filed a letter with the Court indicating that she objected to the writ and requesting a court-appointed attorney and a hearing. 28 U.S.C. § 3205(c)(5) provides that a judgment debtor may challenge a writ of garnishment by filing a written objection within 20 days of receipt of the Garnishee's answer to the writ. The objecting party "shall state the grounds for the objection" and "bear[s] the burden of proving such grounds." 28 U.S.C. § 3205(c)(5). In her letter, Defendant has failed to state any legal or factual grounds for her proposed objections. Moreover, Defendant's investment account does not appear to fall within any of the exemptions available under state or federal law. See, e.g., 18 U.S.C. § 3613(a)(1).

Accordingly, Defendant's objection to the United States' Application for Writ of Garnishment is overruled and the Application will be granted. An appropriate order follows.

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ORDER

AND NOW, this 17th day of September, 2012, for the reasons set forth in the accompanying Memorandum Opinion, IT IS HEREBY ORDERED that Plaintiff's Application for Writ of Garnishment is GRANTED and Defendant's objections are overruled. Garnishee Janney Montgomery Scott, LLC, is directed to liquidate Defendant's investment account, Account # 2043-9244, and issue two checks payable in equal amounts to the Clerk, United States District Court, and to joint account-holder Marc Clark.

/s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record. ____